

Internal Revenue Service  
**memorandum**

CC:TL-N-10105-89

Br2:RLOsborne

date: SEP 18 1989

to: District Counsel, Dallas SW:DAL  
Attn: Gary Kallevang

from: Assistant Chief Counsel (Tax Litigation) CC:TL

subject: [REDACTED]

This responds to your July 28, 1989 request for technical advice.

ISSUES

1. How should competing claims by the common parent and FSLIC for a refund be handled by the Service?
2. If interpleader is instituted, should the Service deposit the entire refund amount or the refund amount reduced by deficiencies agreed to by the taxpayer for prior years?

CONCLUSIONS

1. The Service should handle these competing claims by instituting an interpleader proceeding in federal district court.
2. The Service should deposit the refund amount reduced by deficiencies agreed to by the taxpayer for prior years.

FACTS

The facts are set forth in the attached September 15, 1989 memorandum from General Litigation Division to Tax Litigation Division.

DISCUSSION

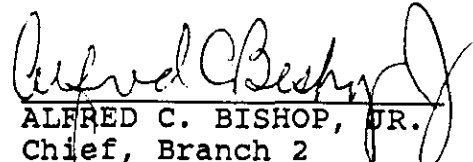
We are in accord with the views expressed in General Litigation Division's memorandum. We note that in United States v. Bass Financial Corp., No. 83 C 706 (1984), interpleader was utilized in a situation much like the instant situation. There the action was filed in the Federal District Court for the Northern District of Illinois. Accordingly, we suggest that the Tax Division of the Department of Justice be contacted with a view to filing the instant interpleader action in a federal district court. For the reasons expressed in General Litigation Division's memorandum, we agree that the Service should not deposit the entire refund amount for [REDACTED]-[REDACTED], but rather only

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that amount reduced by prior tax liabilities agreed to by the taxpayer as explained in your memorandum of July 28, 1989. See I.R.C. § 6502(a).

MARLENE GROSS

By:

  
ALFRED C. BISHOP, JR.  
Chief, Branch 2  
Tax Litigation Division

Attachment:

Sept. 15, 1989 memorandum from General Litigation Div.